IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.962 OF 2000

Krishna Harishchandra Malekar ...Appellant

Versus

Reshmi Krishna Malekar ...Respondent

Shri Rajiv Patil for the Appellant.

CORAM : ABHAY S.OKA, J.
DATED : FEBRUARY 28, 2007.

P.C.:

1. By this Appeal, the Appellant has challenged Judgment and Order dated 29th August, 2000 by which custody of minor child was ordered to be handed over to the Respondent mother. The Appellant is the father of the child. In the impugned order the learned District Judge had held that at the time of passing the order, the child was of a tender age as his age was only three and half years. The learned Judge has observed in the impugned order that the child has to be in the custody of the mother till he attends the age of seven years. It is not in dispute that in terms of the impugned order, the custody of the minor child is already handed over to the Respondent mother. No fault can be found with the impugned order.

2. As of today, the age of the child must be ten years. Considering lapse of about period of seven years from the date of the impugned order, it will be open for the Appellant to make an Application for custody of the minor child on the basis of subsequent events. It is obvious that the Respondent mother will be entitled to oppose such Application.

3. The Appeal is accordingly dismissed. It will be open for the Appellant to take out appropriate Application before the competent court. If such Application is made, the concerned court is bound to decide the said Application considering the fact that welfare of the child is the only paramount consideration in the matter of custody of a minor child.

JUDGE